

The Texas Resource Guide on Assistance Animals, Service Animals and Emotional Support Animals



Texas Governor's Committee on People with Disabilities

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Introduction

Many people encounter assistance animals in public settings such as grocery stores, restaurants, or shopping centers, but the laws governing assistance animals, service animals, and emotional support animals (ESAs) are often misunderstood. To reduce confusion, the Governor's Committee on People with Disabilities (GCPD) developed this resource to provide a definition for assistance animals, service animals, and ESAs. This resource will also clarify which laws are applicable in different settings and contexts.

Definitions

Assistance Animals

An assistance animal is an animal that provides assistance or emotional support for the benefit of a person with a disability. The term includes both a service animal and ESAs.

Service Animals

Service animals are typically dogs that are individually trained to do work or perform tasks for the benefit of an individual with a disability. Individuals with disabilities may use service animals for a variety of reasons. Examples of tasks service animals perform may include assisting individuals who are blind or visually impaired with sighted guide and navigation, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, pulling a wheelchair, assisting an individual during a seizure, and retrieving items such as medication or the telephone.¹

ESAs

An ESA is an assistance animal that does not require or possess training to do work, perform tasks, aid, or provide therapeutic emotional support to a person with a disability but, by its presence, can alleviate one or more identified symptoms or effects of a person's disability. An ESA is not legally considered a service animal and does not have the same protected access to public facilities and transportation that is given to a service animal.²

Federal Law

States may not establish laws regarding assistance animals, service animals, or ESAs that contradict federal law. The following describe federal laws related to assistance animals, service animals, and ESAs.

¹ ADA.gov, retrieved on May 6, 2022, from <https://www.ada.gov/law-and-regs/title-ii-2010-regulations/#section-35104-definitions>

² ADA.gov, "Service Animals and Emotional Support Animals," retrieved on June 27, 2022 from <https://adata.org/guide/service-animals-and-emotional-support-animals>

Americans with Disabilities Act (ADA) Title I

Title I of the ADA prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in:

- job application procedures,
- hiring,
- firing,
- advancement,
- compensation,
- job training,
- and other terms, conditions, and privileges of employment.³

Under the law, an employer may be discriminating against an otherwise qualified individual with a disability if they do not provide reasonable accommodations. Title I does not define or expressly address assistance animals, service animals, or ESAs, but if an employer has a “no-animal” policy, a request to bring a service animal, assistance animal, or ESA to work may be treated as a request for a reasonable accommodation. While employers are required to consider these requests, they are not required to grant the request if the animal is not needed because of a person’s disability or if it would disrupt the workplace.⁴ However, the employer is still required to work with the employee to identify alternatives to address any barriers to employment.

When an employee or prospective employee requests to use an assistance animal, service animal or ESA at work, the employer may ask for documentation establishing the need for the animal and confirming that it is appropriately trained and will not disrupt the workplace.⁵

If a person believes they have been discriminated against under Title I of the ADA, they can file a complaint online, in person, by phone, or by mail. [Visit the Equal Employment and Opportunity Commission page for more information.](#)

ADA Title II and Title III

Title II protects qualified individuals with disabilities from discrimination based on disability in services, programs, and activities provided by state and local government entities.

Title III prohibits discrimination based on disability in the activities in places of public accommodation which are businesses that are open to the public and that fall into one of 12 categories listed in law including restaurants,

³ ADA.gov, “Subchapter I - Employment [Title I],” retrieved on March 28, 2023 from <https://www.ada.gov/law-and-regs/ada/#subchapter-i---employment-title-i>

⁴ Ibid.

⁵ AskJAN.org, “Accommodation and Compliance: Service Animals as Workplace Accommodations,” retrieved on June 27, 2022 from <https://askjan.org/topics/servanim.cfm>

movie theaters, schools, day care facilities, recreation facilities, and doctors' offices.⁶

For purposes of Titles II and III, service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. The work or tasks performed by a service animal must be directly related to the individual's disability. The law does not restrict the type of dog breed that can be a service animal.

State and local governments, businesses, and nonprofit organizations that serve the public must allow service animals to accompany people with disabilities in all areas of the facility where the public is usually allowed to go. Service animals may be excluded if not trained or under the handler's control.⁷

A service animal handler may not be asked about the nature or extent of their disability or the qualifications or certifications of the animal, but may be asked two questions to determine whether the animal qualifies as a service animal:

1. Is the animal required because of a disability?
2. What work or task has the animal been trained to perform?⁸

An entity identified under Title II or Title III may not require proof that the animal in question has been certified, trained, or licensed as a service animal. The entity is not permitted to ask or require an individual with a disability to pay a surcharge because of the animal, even if people accompanied by pets are required to pay fees or to comply with other requirements generally not applicable to people without pets. If the entity normally charges individuals for the damage their animal causes, an individual with a disability may be charged for damage caused by their service animal. The handler is responsible for caring for and supervising the service animal, including toileting, feeding, grooming, and veterinary care.⁹

If a person believes they have been discriminated against under Titles II and III of the ADA, there are three options for filing a complaint:

1. Online: A person can fill out a report on the Department of Justice's Civil Rights Division website: <https://civilrights.justice.gov/report/>
2. Mail: A person can fill out and mail in the paper [ADA Complaint Form](#) to:
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

⁶ ADA.gov "2010 Regulations," retrieved on March 31, 2025, from <https://www.ada.gov/law-and-regs/regulations/title-ii-2010-regulations/>

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

3. Email: A person can fill out and email an electronic copy of the paper [ADA Complaint Form](#) to Ask.CRT@usdoj.gov.

Fair Housing Act (FHA)

The FHA prohibits discrimination based on disability in housing, including the buying or renting of a home or apartment. The FHA prohibits the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations are necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. The U.S. Department of Housing and Urban Development (HUD) has affirmed that housing providers must, as a reasonable accommodation, modify or make exceptions to a “no pets” policy for persons with disabilities who require assistance animals, service animals, or ESAs.¹⁰

HUD defines an “assistance animal” as “an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability.” An assistance animal is not required to be individually trained or certified. An animal that does not qualify as a service animal under the ADA may still be eligible as an assistance animal under the FHA.¹¹

If an individual requests a reasonable accommodation for an assistance animal, service animal, or ESA, the housing provider must make the accommodation if the individual has a disability-related need for the animal. The request may be denied if granting it would:

- impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider’s services,
- the specific animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated, or
- the specific animal in question would cause substantial physical damage to the property of others that cannot be reduced.

Under the FHA, breed, size, and weight limitations may not be applied to assistance animals.¹²

A housing provider may not deny a reasonable accommodation request because they are uncertain whether or not the person seeking the accommodation has a disability or a disability-related need for an assistance animal, service animal, or ESA. If the individual’s disability is not readily apparent, housing providers are permitted to ask the individual to provide

¹⁰ HUD.gov, “Fact Sheet on HUD’s Assistance Animals Notice retrieved on March 31, 2025 from <https://www.hud.gov/sites/dfiles/PA/documents/AsstAnimalsGuidFS1-24-20.pdf>

¹¹ Ibid.

¹² FHEO Notice: FHEO-2020-01 Issued: January 28, 2020
<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

reliable proof of a disability and their need for an assistance animal, service animal, or ESA. A housing provider may require the individual to cover the costs of repairs for damage to the dwelling caused by the animal if it is the provider's standard practice to assess tenants for any damages they cause to the premises.¹³

If a person believes they have been discriminated against under the FHA, there are three options for filing a complaint including online, phone, and mail. [For more information, visit the U.S. Department of Housing and Urban Development page.](#)

Air Carriers Access Act (ACAA)

The ACAA defines a service animal as a dog (regardless of breed or size) trained to do work or perform tasks to assist a qualified individual with a disability and may include psychiatric service dogs. Airlines determine whether an animal is a service animal or a pet by requiring the passenger to provide a U.S. Department of Transportation (DOT) form attesting to the animal's health, behavior, and training, and a form attesting that the animal can either not relieve itself or can relieve itself in a sanitary manner if the animal will be on a flight that is eight or more hours.¹⁴

Airlines can require service animal users to provide forms developed by DOT attesting to the dog's health, behavior, and training to assist the airline in determining if the dog poses a direct threat to the health or safety of others. The ACAA does not address service animals in-training. So, airlines are not required to carry them as they do not meet the requirements of the law. However, airlines are free to make their own individual policies regarding carrying any pets, including service animals in training, provided they comply with the Animal Welfare Act and are consistent with health and safety codes.¹⁵

If a person believes they have been discriminated against under the ACAA, there are three options for filing a complaint:

1. With the airline: a person can ask to speak with a Complaints Resolution Official (CRO). A CRO is the airline's expert on disability accommodation issues. Airlines are required to make one available to you, at no cost, in person at the airport or by telephone during the times they are operating. It is recommended to do this first before filing a complaint with the Department of Transportation.

¹³ FHEO Notice: FHEO-2020-01 Issued: January 28, 2020

<https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

¹⁴ Aviation Consumer protections, "Service Animals," retrieved on June 28, 2022 from <https://www.transportation.gov/individuals/aviation-consumer-protection/service-animals>

¹⁵ Ibid.

2. Mail: a person can send their correspondence to the below address:
Office of Aviation Consumer Protection
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590
3. Online: a person can fill out a form online through the [U.S. Department of Transportation complaint portal](#).

Texas Law

The policy of the state is to encourage and enable people with disabilities to participate fully in the social and economic life of the state, to achieve maximum personal independence, to become gainfully employed, and to fully enjoy and use all public facilities. The term "Public facility" includes, but is not limited to, airplane, bus, hotel, retail business, restaurant, public government building, college dormitory or other educational facility.

Texas Human Resources Code, Chapter 121, requires persons with disabilities to have the same right as persons without disabilities to the full use and enjoyment of any public facility in the state. This includes the right to use a service or assistance animal. State law defines both "assistance animal" and "service animal" as a dog that is specially trained or equipped to help a person with a disability.¹⁶

Texas requires that a service animal in training not be denied admittance to any public facility when accompanied by an approved trainer. Further, the state expressly prohibits individuals from assaulting, harassing, interfering with, injuring, or killing a service or assistance animal.¹⁷

The relevant federal laws are not criminal in nature. Instead, violation is enforced by federal agencies or through private civil action, resulting in civil penalties or monetary damages. Texas provides for a private right of action against discrimination but notably establishes criminal penalties for those who deny access to people with disabilities because of a service or assistance animal, for those who harm a service or assistance animal, or for those who misrepresent an animal as a service or assistance animal.¹⁸

Most of the above offenses are punishable by a fine of not more than \$300 and 30 hours of community service at a governmental entity or nonprofit organization that serves people with disabilities, or another entity or organization chosen by the court. Intentional misrepresentation of a service animal is subject to a fine of not more than \$1,000 in addition to the same community service requirement.

¹⁶ [Tex. Human Resources Code Chapter 121](#)

¹⁷ Ibid.

¹⁸ Ibid.

The responsibility for enforcing this law rests primarily with local prosecutors and peace officers.¹⁹ If an individual wishes to make a complaint on the basis of HRC Chapter 121, it is a good idea to contact 311 (or the non-emergency police dispatch) to request that a peace officer takes a police report. After a police report has been filed, the complainant can follow up with their district attorney for allowable fines and penalties. An alternative to this process is to exercise the private right of action and pursue a lawsuit in small claims court. A lawyer is not required for small claims that are valued at less than \$10,000.

For additional information or questions regarding assistance animals and emotional support animals, contact the Governor's Committee on People with Disabilities at 512-463-5739 or gcpd@gov.texas.gov

¹⁹ [Tex. Human Resources Code Chapter 121](#)